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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Guillermo GARCIA-Lopez

Defendant,

Magistrate Docket No.

'08 MJ 1312

COMPLAINT FOR VIOLATION OF:

Title 18, U.S.C., Section 1361
Destruction of Government
property

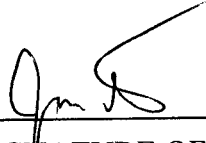
Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:


On or about **April 25, 2008**, within the Southern District of California, defendant, **Guillermo GARCIA-Lopez** did willfully injure and commit a depredation against property of the United States, thereby causing damage to such property in excess of \$1000.00; in violation of Title 18, United States Code, Section 1361.

On or about **April 25, 2008**, within the Southern District of California, defendant, **Guillermo GARCIA-Lopez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **APRIL 2008**.


Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Guillermo GARCIA-Lopez****PROBABLE CAUSE STATEMENT**

I declare under the penalty of perjury that the following statement is true and correct:

On Friday April 25, 2008, Senior Patrol Agent M. Jiron along with Senior Patrol Agent S. Carlson and Supervisory Border Patrol Agent (SBPA) J. Carrell were working assigned line watch duties as part of the All Terrain Vehicle Unit.

At approximately 10:15 p.m., the Remote Video Surveillance and Sensing Operator I-801, a member of the California National Guard advised us via Agency radio of two subjects climbing over the International Boundary Fence, making an illegal entry into the United States near E-1 1/2. This area is approximately one mile east of the San Ysidro, California Port of Entry and adjacent to the United States/Mexico International Boundary Fence. The All Terrain Agents responded to the area.

As the Agents approached the area operator I-801 advised that only one subject, who was later identified as the defendant **Guillermo GARCIA-Lopez**, climbed up onto the secondary fence, using a ladder, but did not seem to attempt to climb over the fence. This area has concertina wire at the top of the secondary fence. Operator I-801 stated he believed the defendant was attempting to cut the concertina wire.

Upon arriving at the area, Agent Jiron observed two subjects on top of the primary International Boundary Fence returning to Mexico and the defendant attempting to also climb the primary fence back into Mexico. The defendant was holding onto the fence with one arm and fell from the primary fence. Agents Carlson approached the defendant and attempted to take him into custody for Entry Without Inspection.

The defendant resisted arrest. Agent Jiron arrived to assist Agent Carlson. SBPA Carrell took a strategic position above on an all weather road because Agents have been repeatedly assaulted with deadly force rock attacks in this area. Both Agent Carlson and Agent Jiron gave the defendant repeated commands to go down and stop resisting arrest.

At that time both Agents were attacked from Mexico with multiple rocks. Agent Jiron saw the defendant was wearing a utility belt, in which he was carrying a pair of heavy duty scissors. Agent Jiron reached for the scissors pulled them from the defendant's holster and threw them away. Rocks continued to come over the primary fence, and the defendant continued to refuse both Agents commands. Agent Jiron saw the defendant put a hand on Agent Carlson's chest and believed the defendant was trying to take Agent Carlson down to the ground.

Agent Jiron retrieved his Agency issued Collapsible Steel Baton (CSB) and struck the defendant multiple times, all in the left outer thigh area. Agent Jiron continued to give the defendant commands to stop. The defendant refused all commands. Agent Carlson and Jiron took the defendant down to the ground, finally subduing him. At approximately 10:30 PM Agent Jiron handcuffed the defendant.

After retreating to a safer location the defendant was searched and the scissors removed from the defendant's utility belt along with a ladder were retrieved from the primary fence area. The defendant was also wearing a glove on his left hand which was wrapped with several layers of duct tape. Agent Jiron identified himself as a Border Patrol Agent and questioned the defendant as to his citizenship. The defendant stated that he is a citizen and national of Mexico. The defendant stated that he did not possess any documents that would allow him to enter or remain in the United States legally. The defendant was taken to the Imperial Beach Border Patrol station for processing.

CONTINUATION RE:

Guillermo GARCIA-Lopez

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on November 22, 2006 s through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

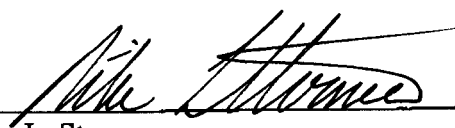
The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant admitted that he was attempting to cut the concertina wire on the secondary border fence.

Executed on April 27, 2008 at 9:00 a.m.



Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on April 25, 2008 in violation of Title 18, United States Code, Section 1361. and Title 8 United States Code, Section 1326.



Nita L. Stormes
United States Magistrate Judge

4-27-08 11:45 AM

Date/Time